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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,138	06/13/2001	Rolf Stimer	4070-61PUS	8988

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Thomas C Pontani  
Cohen Pontani Lieberman & Pavane  
Suite 1210  
551 Fifth Avenue  
New York, NY 10176

EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/831,138

Applicant(s)

STRINER

Examiner

david shay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on November 18, 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Claims 1-11 and 13-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skill in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention. The originally filed disclosure does not discuss cooling the irradiated area.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Russell and Lui et al. Sigurdsson et al teach a method such as claimed, but is silent regarding a device for cooling the treated area. Liu et al teach the treatment of psoriasis by photoactivating endogenous for psoriasis. Russell discloses that increased patient comfort and safety arises from providing an arrangement for cooling the area to be treated (see column 3, lines 39-65). Thus it would have been obvious to the artisan of ordinary skill to include a skin cooling arrangement a taught by Russell in the psoriasis treating method of Lui et al, since this would provide greater comfort and safety, as taught by Russell and to employ the irradiation parameters of Sigurdsson et al, since this provides photoactivation of endogenous porphyrins, or to employ the method of Sigurdsson et al to treat psoriasis, since these conditions are treated by porphyrin activation, thus producing a method such as claimed.

Claims 11, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Lui et al and Russell as applied to claim 1 above, and further in combination with Eastlund et al. Eastlund et al teach the desirability of employing a water jacket on a discharge lamp. It would have been obvious to the artisan of ordinary skill to

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employ a water jacket in the lamp of Sigurdsson et al, since this would cool the bulb and provide spectral filtration, thus producing a device such as claimed.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Lui et al and Russell as applied to claim 1 above, and further in combination with Edison. Edison teaches a fluorescent lamp using Calcium Tungstate as the phosphor, which can be coated inside the vacuum tube or inside a tube containing the vacuum tube. Sigurdsson et al teach a fluorescent lamp with the claimed output characteristics. It would have been obvious to the artisan of ordinary skill to employ the lamp of Edison to produce the claimed spectrum, since this is useful for treating acne vulgaris, as taught by Sigurdsson et al, and psoriasis, as taught by Lui et al or alternatively to employ the phosphor coating of Edison in the lamp of Sigurdsson et al, since Sigurdsson et al teach no particular coating and to employ Calcium Tungstate, since this has a greater power conversion, as taught by Edison, thus producing device such as claimed.

Claims 3, 4, 6, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Lui et al and Russell as applied to claim 1 above, and further in combination with Yoshizawa et al. Yoshizawa et al teach an electrodeless discharge lamp powered by a magnetron and situated in a resonant cavity. It would have been obvious to the artisan of ordinary skill to employ filters on the lamp of Yoshizawa et al to produce the claimed output, since this is useful for treating acne vulgaris, as taught by Sigurdsson et al and psoriasis as taught by Lui et al; or in the alternative, to energize the lamp of Sigurdsson et al

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using the magnetron and resonant cavity of Yoshizawa et al, since this is not critical, produces no unexpected result, and since this configuration provides a longer bulb life than configuration involving electrodes, and in either case to configure the resonator for E<sub>10</sub> mode, since this is not critical and provides no unexpected result, thus producing a device such as claimed.

Claim 5 is rejected under 3 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Lui et al and Russell as applied to claim 1 above, and further in combination with Hammer et al. Hammer et al teach the use of zirconium oxide on the electrodes of discharge lamps. It would have been obvious to the artisan of ordinary skill to employ zirconium oxide in the bulb of Sigurdsson et al, since this would prevent the formation of oxide rings, as taught by Hammer et al, thus producing a device such as claimed.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Russell and Yoshizawa et al as applied to claims 1 and 7 above, and further in combination with Edison. Edison teach the use of Calcium Tungstate as the phosphor in a fluorescent lamp. It would have been obvious to the artisan of ordinary skill to employ the phosphor of Edison, since the phosphor has a greater power conversion, as taught by Edison, thus producing a device such as claimed.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sigurdsson et al in combination with Russell, Lundahl et al and Lui et al. Sigurdsson et al teach a method as claimed except treating a T-cell mediated skin disorder, Lundahl et al teach that treatments for


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acne include using ALA and illuminating it. Lui et al teach that this treatment is also recognized as a treatment for psoriasis. Thus it would have been obvious to employ the acne treatment protocol of Sigurdsson et al, and Lundahl et al since this is recognized as appropriate for psoriasis, thus producing a method such as claimed.

Regarding Russell, the examiner notes that the effective filing date of the instant application is June 6, 2001. The claim for priority under 35 U.S.C. 119 does not affect the effective date of the application. Thus Russell is properly applied. With regard to the rejection under 35 U.S.C. 112, first paragraph, the cooling discussed in the specification refers to cooling the lamp, not the patient, as claimed.

Applicant's arguments with respect to claims 1-11 and 13-15 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to david shay at telephone number (571) 272-4773.

  
DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330